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16 Attorneys for Defendant

17 **E-filed 6/5/06**

18 IN THE UNITED STATES DISTRICT COURT
19 FOR THE NORTHERN DISTRICT OF CALIFORNIA
20 SAN JOSE DIVISION

21 PHASE FORWARD INCORPORATED,) Case No.: C 05-4232 JF (HRL)
22 a Delaware Corporation,)
23 Plaintiff,) **APPLICATION, STIPULATION,
24 vs.) DECLARATION AND [PROPOSED]
25 MARY NOEL ADAMS, individually and) ORDER EXTENDING DISCOVERY AND
26 d/b/a PHASE FORWARD,) MOTION CUT OFF DATES**
27 Defendant.)
28

29 **APPLICATION**

30 Pursuant to Civil Local Rule 6-2, plaintiff Phase Forward Incorporated and defendant
31 Mary Noel Adams (hereinafter, the “Parties”), by and through their respective counsel, hereby
32 request that the Court amend the existing Scheduling Order adopted on March 6, 2006, and
33 extend by 30 days (1) the date on which discovery in this action is to be completed; (2) the last
34 day for the parties to file expert reports; (3) the last day for the parties to file rebuttal expert
35 reports; and (4) the date for the trial of this action. The parties will file a joint status report on
36 June 1, 2006, indicating the parties’ current discovery status and the parties’ proposed dates for
37 the completion of discovery, the filing of expert reports, and the filing of rebuttal expert reports.
38

1 reports; (4) the date on which expert discovery will close; (5) the last day for the filing of
 2 motions for summary judgment or partial summary judgment; and (6) the date set for motion
 3 hearing.

4 **DECLARATION**

5
 6 I, MATTHEW STAVISH, declare as follows:

7
 8 1. I am an attorney duly admitted to practice law in the State of Maryland, and *pro hac vice*
 9 in the Northern District of California in Civil Case No. C 05-4232 JF (HRL). I have personal
 10 knowledge of the facts set forth herein, unless otherwise indicated, and if called as a witness
 11 could and would so testify.

12 2. In its March 6, 2006 Order, the Court adopted the following discovery and motion
 13 schedule, and set the motion hearing date:

15 Task/Action	16 Adopted Schedule
17 Close of Fact Discovery	18 June 1, 2006
19 Last Day to File Expert Reports	20 July 1, 2006
21 Last Day to File Rebuttal Expert Reports	22 August 1, 2006
23 Close of Expert Discovery	24 October 1, 2006
25 Last Day to File Motions for Summary 26 Judgment and Partial Summary Judgment	27 November 1, 2006
28 Motion Hearing Date	29 December 15, 2006 at 9:00 a.m.

30
 31 3. In early May 2006, the parties began coordinated efforts to schedule depositions for their
 32 intended witnesses.

33 4. Plaintiff informed me of its intent to depose Mary Noel Adams. I likewise advised of my
 34 intent to depose Plaintiff's 30(b)(6) witness, as well as individuals listed in Plaintiff's Rule 26 (a)

disclosure, namely, Robert K. Weiler, Paul Bleicher, Ari Buchler, William Porter, Steve Powell and Lynette Herscha. I also expressed my preference to depose these witnesses with the benefit of their responses to my document and information requests, served on April 13, 2006.

5. Despite diligent efforts, both Parties had difficulty coordinating counsel and deponent availability throughout May 2006. (The earliest feasible date for Mary Noel Adams' deposition was May 23, 2006.)

6. I received the documents produced by Plaintiff on Friday, May 19. Knowing my client was to be deposed the following Monday, May 23, 2006, and anticipating increased scheduling complications entering the last week of discovery, and an imminent Memorial Day weekend, Nathan Dean (Plaintiff's counsel), and I agreed that a 30 day extension of discovery and motion deadlines would provide both sides with the time needed to complete their respective factual investigations.

7. There have been no prior modification of the case management dates adopted in the Court's March 6, 2006 Order.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge, and that this Declaration was executed at Bethesda, Maryland, on this 1st day of June, 2006.

Matthew Stavish
Matthew Stavish

STIPULATION

For the reasons set forth above, the Parties stipulate to a 30 day extension of the discovery and motion cut-off dates adopted in the Court's March 6, 2006 Order, and jointly request that this Court approve the following modified schedule:

Task/Action	Adopted Schedule	Modified Schedule
Close of Fact Discovery	June 1, 2006	July 3, 2006
Last Day to File Expert Reports	July 1, 2006	August 1, 2006
Last Day to File Rebuttal Expert Reports	August 1, 2006	August 31, 2006
Close of Expert Discovery	October 1, 2006	October 31, 2006
Last Day to File Motions for Summary Judgment and Partial Summary Judgment	November 1, 2006	December 1, 2006
Motion Hearing Date	December 15, 2006 at 9:00 a.m.	30 day extension, in deference to the Court's calendar

Dated: June 1, 2006

LAURA THOMPSON, ESQ.

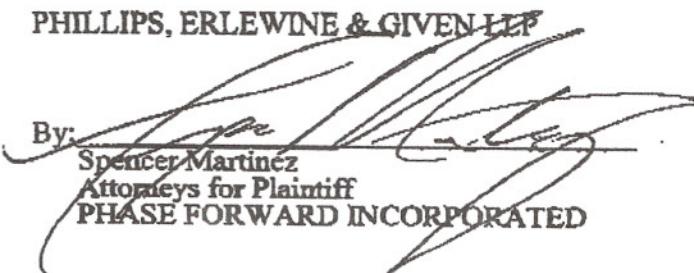
By:


Laura Thompson
Attorney for Defendant
MARY NOEL ADAMS

Dated: June 1, 2006

PHILLIPS, ERLEWINE & GIVEN LLP

By:


Spencer Martinez
Attorneys for Plaintiff
PHASE FORWARD INCORPORATED

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

June 2, 2006

United States District Court Judge
Judge Jeremy Fogel